



- 3. Specifications.** Contractor shall deliver all Good and Services specified in section 1 as stated in this section. Contractor's failure to deliver Goods and Services as stated in this Contract is a material breach of this Contract.
- 3.1. Non-Compliance.** If any Goods or component parts are recalled by a regulatory body or the manufacturer, or discovered by Contractor not to comply with applicable regulatory standards or the Specifications provided in this Contract, Contractor must immediately notify City of the recall or non-compliance, and must provide copies of the recall notice or notice of non-compliance, as applicable, and all other supporting documentation for the recall or non-compliance determination. City may elect to (a) reject Goods in whole or in part, or (b) revoke its acceptance of Goods in whole or in part. If City rejects Goods or revokes its acceptance of Goods, Contractor must remove the particular Goods from City's possession as provided in section 7.4 at no cost to City and reimburse City for all payments made for those Goods.
- 3.2. Standard Components.** Unless specified otherwise in these Specifications, Contractor must provide Goods with all components and accessories that the manufacturer lists as "standard" for Goods.
- 3.3. Necessary Components.** Unless specified otherwise in these Specifications, Contractor must include all components, hardware, and parts necessary for complete and proper assembly, installation, and operation of Goods.
- 3.4. New and Unused Goods.** Unless specified otherwise in this section 3, Specifications, Contractor shall deliver Goods that are new, unused and produced from current production inventory. Contractor shall provide Goods manufactured from only those components that the manufacturer offers in the manufacturer's current parts catalogue for Goods.
- 3.5. Detailed Specifications.** Further specifications for the Goods are as stated in Attachment 1.
- 4. Payment by City.** City will pay Contractor for Goods delivered and Services performed at the prices and rates specified in Attachment 1. The maximum, not-to-exceed compensation payable to Contractor under this Contract, which includes any allowable expenses, is \$\*\*\*,\*\*\*.\*\*. City will not pay Contractor any amount in excess of the not-to-exceed compensation of this Contract and will not pay for Services performed before the Effective Date or after the expiration or termination of this Contract. If the maximum compensation is increased by amendment of this Contract, the amendment must be fully effective before Contractor performs Services subject to the amendment.
- 5. Term.** This Agreement is effective as of the date first set forth above and will continue until \_\_\_\_\_, unless earlier terminated in accordance with the provisions of this Agreement or by mutual consent of the parties.  
[Check as applicable to scope of services. Renewal term must be consistent with the solicitation. Non Appropriation required for terms that span multiple fiscal years.]
- 5.1.**  Renewal. This Agreement may be extended for **three (3)** additional **one**-year terms upon mutual agreement of the parties in writing.
- 5.2.**  Non-Appropriation. The obligation of the City to make payments beyond June 30, **[end of current fiscal year]** is subject to annual appropriation. To the extent that funds are appropriated to make those payments for a given fiscal year, the full faith and credit of the City is pledged to the payments for such fiscal year. The obligation of the City to make those payments is not secured by the unlimited taxing power of the City and is not a general obligation of the City, The City's obligation to make those payments in any year is subject to future appropriation of funds by the City Council for the fiscal year in which the payment is due. In the event that funds are not so appropriated, payments will not be made and this Agreement will be terminated as of the date noted in this subsection 4.2.
- 6. Invoice.** City will pay Contractor's invoices on Net 30 day terms upon City acceptance of Services performed and Goods delivered as stated in section 7. Contractor must send invoices to: Accounts Payable - City of Springfield, 225 5<sup>th</sup> Street, Springfield, OR 97477 or email to [ap@springfield-or.gov](mailto:ap@springfield-or.gov). The invoice must reference this contract #**XXXX** and approval code #**XXX**.

**7. Overdue Charges.** Contractor may assess overdue account charges to City on unpaid invoices only as stated in this section. Overdue account charges must be the same as the usual overdue account charges to the general clientele of the vendor. Overdue claims are only those claims that have not been paid within 45 days of: the date of the City's receipt of the invoice, the date of the initial billing statement if there is no invoice, or the date the claim is made certain by agreement of the parties or by operation of law. However, no overdue account charges will accrue on any purchases made by City during time of civil emergency or in the event of a natural disaster which prevents the timely payment of accounts. In such instances accounts shall be paid in as timely a manner as possible. The date of the check or automatic funds transfer in payment of the claims will be used to determine if the claim has been paid in a timely manner. It is a rebuttable presumption that the check was correctly dated.

**8. Acceptance, Rejection, and Revocation of Acceptance.**

**8.1. Acceptance.** City inspect, and either accept or reject Goods delivered within **fourteen (14) calendar days** from the date Contractor delivers Goods to City. City may also test Goods within this period, if City, in its sole discretion, determines testing necessary. If City does not provide written notice of acceptance or rejection of Goods to Contractor within **fourteen (14) calendar days** following the date of delivery of Goods, City is deemed to have accepted the Goods.

**8.2. Rejection.** If City rejects Goods, then City's written notice of rejection will, at a minimum, itemize the apparent defects and include:

- 8.2.1.** A description of nonconformance between Goods delivered and the required Specifications and warranties (including any variance from demonstrations or sample characteristics of Goods if Contractor provided demonstrations or samples);
- 8.2.2.** A description of any other nonconformance of Goods (including late delivery); and
- 8.2.3.** A statement indicating whether Contractor may cure the nonconformance and if so, the method by which and time period within which Contractor may cure.

**8.3. Revocation of Acceptance.** Notwithstanding City's acceptance of Goods under section 7.1 City may revoke its acceptance of Goods for nonconformance with the Specifications. If City revokes acceptance of Goods, City shall deliver a written notice of revocation of acceptance to Contractor that includes the same information required for a written notice of rejection under section 7.2.

**8.4. Effect of Rejection or Revocation of Acceptance.** If City rejects Goods or revokes its acceptance of Goods, Contractor shall refund all payments City has made to Contractor for those Goods and shall, at no cost to City, remove Goods from City's possession within **nine (9) calendar days** following the later of the date of City's notice of rejection, the date of City's notice of revocation of acceptance, or the date of Contractor's failure to cure if cure is permitted. Nothing contained in this section 7 precludes City from pursuing any remedies to which either may be entitled upon rejection or revocation of acceptance of Goods or otherwise under this Contract.

**9. Contractor's Representations and Warranties.** All express and implied warranties that are applicable to goods under ORS Chapter 72 apply to Goods delivered under this Contract. The warranties specified in this section 8 are in addition to, and not in lieu of, any other warranties provided in this Contract. All warranties are cumulative and shall be interpreted broadly to give City the greatest warranty protection available. Contractor represents and further warrants that:

- 9.1.** Contractor has the authority to enter into and perform according to this Contract, and that this Contract, when executed and delivered, is a valid and binding obligation of Contractor that is enforceable according to its terms;
- 9.2.** All Goods delivered to City are new, unused, current production models and are free from defects in materials, design and manufacture for

[Specify date range or specified period of time beginning on specific date] ("Warranty Period") OR

The duration of the warranty period specified in Attachment 1 ("Warranty Period");

Contractor further represents and warrants that all Goods meet or exceed all Specifications;

- 9.3.** All Goods delivered shall comply with all applicable federal health and safety standards;
- 9.4.** Contractor has the skill and knowledge possessed by well-informed members of its industry, trade or profession and Contractor will apply that skill and knowledge with care and diligence and perform Services in a timely, professional, and skillful manner according to standards applicable to Contractor's industry, trade, or profession; and
- 9.5.** Contractor is, and must be at all times during the term of this Contract, qualified, professionally competent, and duly licensed to perform Services.

**10. Manufacturer's Warranties.** At no charge to City, Contractor must transfer or cause the transfer of all manufacturers' warranties for Goods and component parts, if any, to the City for City's benefit when Contractor delivers Goods to City. If a conflict or inconsistency exists between a manufacturer's warranty and Contractor's warranty, the warranty that provides the greatest benefit and protection to State shall prevail.

**11. Sourcing.** [Insert here a description the sourcing activity that was performed]

**12. First Point of Contact.**

[Contractor name]- [Contractor contract name, email] PH [Contractor ph #]  
City-[NAME and email] - PH: 541.[###.####]

**13. Indemnification and Hold Harmless.**

- 13.1.** Contractor agrees to indemnify, defend, and hold harmless the City and its officers, agents and employees from and against all claims, actions, liabilities, loss, and costs including attorney's fees and costs of defense, arising in whole or in part from the acts or omissions of Contractor, and Contractor's subcontractors, officers, agents, and employees, in performance of this contract.
- 13.2.** In the event any such action or claim is brought against City, upon tender by City, Contractor will defend the same at Contractor's sole cost and expense, promptly satisfy any judgment adverse to City or to City and Contractor, jointly, and reimburse City for any loss, cost, damage or expense, including attorney fees, suffered or incurred by City. City shall notify Contractor, within a reasonable time, of any claim, threat of claim or legal action.
- 13.3.** Notwithstanding subsections 12.1 and 12.2, neither Contractor nor any attorney engaged by Contractor will defend any claim in the name of the City, nor purport to act as legal representative of the City, without the prior written consent of the City Attorney's Office. CITY may, at any time and at its election, assume its own defense and settlement of any claims. City reserves all rights to pursue any claims it may have against Contractor if the City elects to assume its own defense.
- 13.4.** This Section 14 does not include indemnification by Contractor for losses, claims, or actions resulting from the sole negligence of City or its officers, agents, and employees, whether within the scope of the Contract or otherwise.

**14. Insurance.**

- 14.1. Required Coverages.** Contractor must obtain at Contractor's expense, and require its first tier contractors and subcontractors, if any, to obtain the insurance specified in this exhibit prior to performing under this Contract, and must maintain it in full force and at its own expense throughout the duration of this Contract, as required by any extended reporting period or tail coverage requirements, and all warranty periods that apply. Contractor must obtain and require its first-tier contractors and subcontractors, if any, to obtain the following insurance from insurance companies or entities acceptable to City and authorized to transact the business of insurance and issue coverage in Oregon. Contractor acknowledges that

insurance specified in this section does not limit indemnification responsibilities specified in section 12 Indemnification.

**14.1.1. General Insurance.** Commercial general liability insurance covering bodily injury and property damage in a form and with coverage that are satisfactory to City. This insurance must include personal and advertising injury liability, products and completed operations, contractual liability coverage for the indemnity provided under this Grant, and have no limitation of coverage to designated premises, project or operation. Coverage must be written on an occurrence basis in an amount of not less than \$2,000,000 per occurrence. Annual aggregate limit may not be less than \$3,000,000.

**14.1.2. Automobile Liability Insurance.** Automobile liability insurance covering Contractor's business use including coverage for all owned, non-owned, or hired vehicles with a combined single limit of not less than \$1,000,000 for bodily injury and property damage. This coverage may be written in combination with the commercial general liability insurance (with separate limits for commercial general liability and automobile liability). Use of personal automobile liability insurance coverage may be acceptable if Contractor provides evidence that the policy includes a business use endorsement.

**14.1.3. Workers' Compensation.** Contractor must provide and maintain workers' compensation coverage with limits not less than \$500,000 for its employees, officers, agents, or partners, as required by applicable workers' compensation laws as defined in ORS 656.027 and ORS 701.035(5). If Contractor is exempt from coverage, a written statement signed by Contractor so stating the reason for exemption must be provided to the City.

**14.2. Additional Coverages.** [City staff check as applicable to scope of services]

**14.2.1.  Professional Liability.** Contractor shall maintain a professional liability insurance policy reflecting limits of not less than \$2,000,000 for claims for professional acts, errors or omissions arising from the Work. The policy may be written on a "claims made" form. Contractor shall maintain the professional liability insurance coverage for at least one year after the completion of the work. The policy shall contain an endorsement entitling the City not less than 60 days prior written notice of cancellation of such policy

**14.2.2.  Cybersecurity.** Contractor shall maintain in force during the duration of this agreement a cybersecurity policy with limits not less than \$2,000,000.

**14.3. Excess/Umbrella Insurance.** A combination of primary and excess/umbrella insurance may be used to meet the required limits of insurance.

**14.4. Additional Insured.** All liability insurance, except for workers' compensation, professional liability, and network security and privacy liability (if applicable), required under this Contract must include an additional insured endorsement specifying the City and its officers, employees and agents as Additional Insureds, including additional insured status with respect to liability arising out of ongoing operations and completed operations, but only with respect to Contractor's activities to be performed under this Contract. Coverage must be primary and non-contributory with any other insurance and self-insurance. The Additional Insured endorsement with respect to liability arising out of Contractor's ongoing operations must be on ISO Form CG 20 10 07 04 or equivalent and the Additional Insured endorsement with respect to completed operations must be on ISO form CG 20 37 04 13 or equivalent.

**14.5. Waiver of Subrogation.** Contractor waives, and must require its first tier contractors and subcontractors waive, rights of subrogation which Contractor, Contractor's first tier contractors and subcontractors, if any, or any insurer of Contractor may acquire against the City by virtue of the payment of any loss. Contractor must obtain, and require its first tier contractors and subcontractors to obtain, any endorsement that may be necessary to affect this waiver of subrogation, but this provision applies regardless of whether or not the City has received a waiver of subrogation endorsement from the Contractor or the Contractor's insurer(s).

**14.6. Tail Coverage.** If any of the required insurance is on a claims made basis and does not include an extended reporting period of at least 24 months, Contractor must maintain, and require its first tier contractors and subcontractors, if any, maintain, either tail coverage or

continuous claims made liability coverage, provided the effective date of the continuous claims made coverage is on or before the Effective Date of this Contract, for a minimum of 24 months following the later of (i) Contractor's completion and City's acceptance of all Goods and Services provided under this Contract, or, (ii) City or Contractor termination of this Contract, or, (iii) the expiration of all warranty periods provided under this Contract.

**14.7. Evidence of Insurance Coverage.** Evidence of the required insurance coverages issued by an insurance company satisfactory to the City shall be provided to the City by way of a City approved certificate of insurance before any work or services commence.

**14.8. Notice of Cancellation or Material Change in Coverage.** The certificate of insurance shall contain a requirement that the Insurance company notify the City 30 days prior to any cancellation or material change in coverage. If the approved insurance company will not provide this 30 day notice, the Contractor shall provide written notice to the City contract manager within two days after the Contractor becomes aware that their coverage has been canceled or has been materially changed. The Contractor shall either fax 541-726-3782 said notice or email it directly to City Finance Department at purchasing@springfield-or.gov. Regardless of what circumstances cause Contractor's insurance coverage to cease or be modified, it is the Contractor's responsibility to notify the City. Failure to maintain proper insurance or provide notice of cancellation or modification shall be grounds for immediate termination of this contract. \_\_\_\_\_ **(Contractor initials)**

**14.9. Equipment and Material.** Contractor shall be responsible for any loss, damage, or destruction of its own property, equipment, and materials used in conjunction with the work.

**15. Independent Contractor Status, Tax duties and Liabilities.**

**15.1.** Contractor will perform all Services as an independent contractor. Although City may (a) determine and modify the delivery schedule for Goods to be delivered and Services to be performed and (b) evaluate the quality of the completed performance, City cannot and will not control the means or manner of Contractor's performance. Contractor is responsible for determining the appropriate means and manner of performing any Services required under this Contract. Contractor is not an "officer", "employee", or "agent" of City as those terms are used in ORS 30.265.

**15.2.** Contractor shall be responsible for all federal, state, and local taxes, if any, applicable to any payments received pursuant to this Agreement, including but not limited to income tax, payroll tax, social security and self-employment tax. CITY will not withhold, pay, or in any other manner be responsible for payment of any taxes on behalf of Contractor. Contractor is not eligible for any social security, unemployment insurance, or workers' compensation benefits from compensation or payments paid to Contractor under this Contract.

**16. Legal Representation.** This Agreement was prepared by the City. Contractor has had the opportunity to have this Agreement reviewed by its own legal counsel prior to its execution.

**17. Venue and Choice of Law.** Venue for litigation concerning this Agreement rests exclusively with the court of the State of Oregon for Lane County. Any dispute arising under this Agreement will be governed by the law of the State of Oregon.

**18. Force Majeure.** If Contractor is delayed by reason of weather, fire, riot, strikes, acts of God or other circumstances beyond Contractor's reasonable control, CITY may terminate this Agreement in writing to Contractor after determining such delay or default will unreasonably prevent successful performance of the Contract. If City elects not to terminate the Contract, Contractor will be entitled to additional time to complete the Contract equal to that lost by an or all of the above causes.

**19. Severability.** If any provision of this Agreement is declared by a court to be illegal or in conflict with any law, the validity of the remaining terms and provisions will not be affected; the rights and obligations of the parties will be construed and enforced as if the Agreement did not contain the particular provision held to be invalid.

**20. Records & Data.**

**20.1. Access to Data.** City and its duly authorized representatives shall have access to books, documents, papers and records of Contractor which are directly pertinent to this Agreement for the purpose of making audit, examination, excerpts and transcripts.

[City staff check the following additional provisions if applicable based on scope of services]

**20.2.  Rights in Data.** All original written material in whatever form, whether print or digital, prepared for City pursuant to this Agreement, is the exclusively the property of the City. The ideas, concepts, know-how, or techniques developed during the course of this Agreement by Contractor personnel can be used by either party in any way it may deem appropriate. Material already in Contractor's possession, independently developed by Contractor outside the scope of this Agreement, or rightfully obtained by Contractor from third parties, belong to Contractor. This Agreement does not preclude Contractor from developing materials which are competitive, irrespective of their similarity to materials which might be delivered to the City pursuant to this Agreement. Contractor will not, however, use any written materials developed under this Agreement in developing materials for others, except as provided in this section.

**21. Confidentiality.** During the course of performance hereunder, Contractor or its agent, employees, or contractors, may receive confidential information. Contractor agrees to use its best efforts to maintain the confidentiality of such information and to inform each agent and employee performing services of the confidentiality obligation that pertains to such information.

**21.1. Additional Provisions.** Contractor must comply with the terms and conditions in the followed addenda, incorporated by reference, in the receipt and handling of confidential information: [City staff check as applicable to scope of services and attach addenda.]

- Confidential Information Addenda
- Business Associate Agreement (HIIPAA Compliance) Addenda

**22. Waiver.** Failure of City to enforce any provision of this Agreement shall not constitute a waiver or relinquishment by City of the right to such performance in the future nor of the right to enforce any other provision of this Agreement.

**23. Amendments.** The terms of this Agreement shall not be waived, altered, modified, supplemented or amended in any manner whatsoever, without prior written approval of City. No modification of this Agreement shall bind either party unless reduced to writing and subscribed by both parties, or ordered by a Court.

**24. Termination.** The performance of work under this Agreement may be terminated by City, in whole or in part, whenever for any reason City shall determine that such termination is in the best interest of City. Any such termination shall be effected by delivery to the Contractor of a Notice of Termination specifying the extent to which performance of the work under the Agreement is terminated and the date on which such termination is effective. Upon delivery to the Contractor of a Notice of Termination under this paragraph, the Contractor and City shall, by agreement, make an appropriate written modification to this Agreement governing completion of portions of the Contractor's work and payment therefore by CITY.

**25. Assignment/Subcontract.** Contractor shall not assign, sell, transfer, subcontract or sublet rights, or delegate responsibilities under this Agreement, in whole or in part, without the prior written approval of City. No such written approval shall relieve Contractor of any obligations of

this Agreement, and any transferee or subcontractor shall be considered the agent of Contractor. Contractor shall remain liable as between the original parties to this Agreement as if no such assignment had occurred.

**26. Compliance with All Government Regulations.** Contractor shall comply with all Federal, State and local laws, codes, regulations and ordinances applicable to the work performed under this Agreement. Failure to comply with such requirements shall constitute a breach of contract and shall be grounds for termination of this Agreement. Damages or costs resulting from noncompliance shall be the sole responsibility of Contractor. This section includes, but is not limited to, **compliance** with all applicable requirements of Federal and State civil rights statutes, rules, and regulations, and all applicable provisions of the Americans with Disabilities Act of 1990, 42 USC Section 12101 et seq. and Section 504 of the Rehabilitation Act of 1973.

**27. Attorney Fees.** Except for defense costs and expenses pursuant to section 12, neither City nor Contractor is entitled to recover attorney's fees, court and investigative costs, or any other fees or expenses associated with pursuing a remedy for damages arising out of or relating to this Contract.

**28. Construction of Agreement.** This Contract shall not be construed more favorably to City due to the preparation of this Contract by City. The headings and subheadings in this Contract are for convenience, do not form a part of this Contract, and shall not be used in construing this Contract.

**29. Entire Agreement.** This Agreement signed by both parties is the parties' final and entire Agreement and supersedes all prior and contemporaneous oral or written communications between the parties, their agents and representatives. There are no representations, promises, terms, conditions or obligations other than those contained herein.

CITY OF SPRINGFIELD:

CONTRACTOR:

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_  
\_\_\_\_\_

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_  
\_\_\_\_\_



**City of Springfield Public Contract Addendum  
Required Contract Terms Under ORS 279B – Goods, Services, and Personal Services**

**Pursuant to Oregon law, this public contract includes the following terms and conditions, when applicable:**

1. The contractor must make payment promptly, as due, to all persons supplying to the contractor labor or material for the performance of the work provided for in the contract. ORS 279B.220(1).
2. The contractor must pay all contributions or amounts due the Industrial Accident Fund from the contractor or subcontractor incurred in the performance of the contract. ORS 279B.220(2).
3. That contractor must not permit any lien or claim to be filed or prosecuted against the state or a county, school district, municipality, municipal corporation or subdivision thereof, on account of any labor or material furnished. ORS 279B.220(3).
4. The contractor must pay to the Department of Revenue all sums withheld from employees under ORS 316.167. ORS 279B.220(4).
5. If the agreement is for lawn and landscape maintenance, Contractor must salvage, recycle, compost or mulch yard waste material at an approved site, if feasible and cost-effective. ORS 279B.225.
6. The contractor must promptly, as due, make payment to any person, co-partnership, association or corporation furnishing medical, surgical and hospital care services or other needed care and attention, incident to sickness or injury, to the employees of the contractor, of all sums that the contractor agrees to pay for the services and all moneys and sums that the contractor collected or deducted from the wages of employees under any law, contract or agreement for the purpose of providing or paying for the services. All employers shall comply with ORS 656.017. ORS 279B.230.
7. A person may not be employed for more than 10 hours in any one day, or 40 hours in any one week, except in cases of necessity, emergency or when the public policy absolutely requires it, and in such cases, except in cases of contracts for personal services designated under ORS 279A.055, the employee shall be paid at least time and a half pay:
  - a. For all overtime in excess of eight hours a day or 40 hours in any one week when the work week is five consecutive days; or
  - b. For all overtime in excess of 10 hours in any one day or 40 hours in any one week when the work week is four consecutive days, Monday through Friday; and
  - c. For all work performed on Saturday and on any legal holiday specified in ORS 279B.020.
8. An employer must give notice in writing to employees who work on a public contract, either at the time of hire or before commencement of work on the contract, or by posting a notice in a location frequented by employees, of the number of hours per day and days per week that the employees may be required to work. ORS 279B.235(1)-(2).
9. If the agreement is for personal services, the contract shall contain a provision that the employee shall be paid at least time and a half for all overtime worked in excess of 40 hours in any one week, except for individuals under personal services contracts who are excluded under ORS 653.010 to 653.261 or under 29 U.S.C. 201-209 from receiving overtime. ORS 279B.235(3).
10. If the contract is for services, persons employed under contracts shall receive at least time and half pay for work performed on the legal holidays specified in a collective bargaining agreement or in ORS 279B.020(1)(b)(B)-(G) and for all time worked in excess of 10 hours in any one day or in excess of 40 hours in any one week, whichever is greater. Contractor shall give notice in writing to employees who work on a contract for services, either at the time of hire or before commencement of work on the contract, or by posting a notice in a location frequented by employees, of the number hours per day and days per week that the employees may be required to work. ORS 279B.235(5).